

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD19-021
LOCATION OF PROPERTY	Northwest corner of Will Wool Drive and Quinn Avenue (639 Quinn Avenue)
ZONING DISTRICT	A(PD) Planned Development (File No. PDC81-005)
GENERAL PLAN DESIGNATION	Light Industrial
PROPOSED USE	Planned Development Permit to allow the demolition of an existing residential structure and accessory shed totaling approximately 1,700 square feet and the development of an approximately 45,000-square foot industrial warehouse building and an attached two-story, 10,068-square foot office building, and the removal of one ordinance-size tree and 26 non-ordinance-size trees on an approximately 3.74-gross acre site.
ENVIRONMENTAL STATUS	Exempt per CEQA Guidelines Section 15332 for In-fill development projects
APPLICANT ADDRESS	Anthony Corrales 2231 Will Wool Drive San José, CA 95112
OWNER ADDRESS	Marshall, Russell J. Trustee PO BOX 1942 Campbell, California, 95009

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** A Planned Development Permit to allow the demolition of existing buildings totaling approximately 1,700 square feet and the development of an approximately 45,000-square foot industrial warehouse and an attached, two-story 10,068-square foot office building, and removal of one ordinance-size tree and 26 non-ordinance size trees on an approximately 3.74-gross acre site.
2. **Site Description and Surrounding Uses.** The project site is located at the northwest corner of Will Wool Drive and Quinn Avenue. The subject 3.74-gross acre project area is comprised of four contiguous parcels. Parcel 1, or the parcel abutting Will Wool Drive (APN: 477-73-035) is developed with a residential structure and a converted shed situated at mid-lot. The residential structure and shed are currently used for vehicle and equipment storage and

incidental office space. A portion of Parcel 1 and the western half of Parcel 2 have been used as uncovered industrial storage areas. The site is surrounded by industrial warehouses and incidental office uses on the north, west, and eastern sides of the site, and a commercial plaza to the southwest of the project site. Parcels 3 and 4 are vacant and fenced in. The project would demolish all structures on-site. Coyote Creek is approximately 800 feet north of the project site. The nearest major intersection is Tully Road and Senter Road, approximately 1,200 feet southeast of the site.

3. **General Plan Conformance.** The project is consistent with the site's Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Light Industrial in that this designation is intended for a wide variety of industrial uses including warehousing, wholesaling, and light manufacturing. The project includes a warehouse and incidental office space consistent with the Light Industrial designation.
4. **Zoning Conformance.** The project site is located within the A(PD) Planned Development Zoning District. The project conforms to the Planned Development Zoning established pursuant to Planning File No. PDC81-005 approved on July 1, 1981. The development standards refer to the IP-d Industrial Park District. Permitted uses for IP-d Industrial Park District in the City of San José Zoning Ordinance, as amended to August 1981, include: manufacturing, warehousing, and distribution establishments, and professional offices; secondary uses include off-street parking and loading facilities for all primary and secondary uses on the site. Therefore, the warehouse and secondary office uses conform to the uses and regulations established in IP-d Industrial Park District as referenced in its Planned Development Zoning. Per the 1981 Zoning Ordinance, development standards and regulations for IP-d include the following:
 - a. *Use.* Warehouse/distribution facility and incidental office space are permitted uses in the Light Industrial Zoning District.
 - b. *Parking.*

Use	Vehicle Parking Required	Required	Proposed
Warehouse (greater than 25,000 sq. ft.)	5 minimum for 25,000 sq. ft. warehouse + 1 per every 5,000 sq. ft. over 25,000 sq. ft.	9	
Business and professional office	1 for each 250 sq. ft. of floor space	35	
TOTAL		44	84

The project also includes five motorcycle parking spaces and five covered bicycle parking spaces.

c. *Development Standards.*

Setbacks: The IP-d requires building and structures be located 15 feet from the front property line. Loading docks shall be 50 feet from the property line unless situated on a side property lined which does not face the street. No rear or side setbacks are required.

Height: The maximum height of buildings is 45 feet.

Analysis: The project's building is set back from Quinn Avenue (front) approximately 132 feet; within the front setback is a surface lot and landscaping. The project would maintain a 20-foot setback from the rear of the property line and the building is set back more than 10 feet on either side of the property lines. The building height would be 32 feet, 6 inches to top of parapet. Therefore, the project is in conformance with the development standards.

5. Environmental Review.

Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Planned Development Permit is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15332 Infill Development Projects exempts projects characterized as infill development meeting the following conditions: a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; c) the project site has no value as habitat for endangered, rare or threatened species; d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and e) the site can be adequately served by all required utilities and public services. The project is consistent with the Envision San José 2040 General Plan, general plan policies, and the standards and regulations in its Planned Development Zoning District. The proposed development occurs within city limits on a 3.74-gross acre site and is substantially surrounded by urban uses. The project site has no value as habitat for endangered, rare or threatened species and the approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. The site can be adequately served by all required utilities and public services. Through the environmental and project review of this proposal, the project will incorporate all standard permit conditions and measures, in accordance with City standards and regulations for construction and operations that will not result in any significant or unacceptable negative effects on the environment or adjacent uses.

- 6. Demolition Findings:** Chapter 20.80.460 of the San José Municipal Code establishes evaluation criteria for issuance of a permit to allow for demolition. These criteria are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.
- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
 - b. The failure to approve the permit would jeopardize public health, safety or welfare;
 - c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
 - d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
 - e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
 - f. Rehabilitation or reuse of the existing building would not be feasible; and

- g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: The demolition of the existing residential structure and accessory structure (shed), totaling approximately 1,700-square feet in size, would facilitate the construction of an industrial warehouse and office building that would be compatible with the surrounding environment. The existing residential structure is over 45 years old and therefore is a legal nonconforming use that required additional historic evaluation. A legal nonconforming use is a use of land or structure which was legally established according to the applicable zoning and building laws of the time, but which does not meet current zoning and building regulations. The residential structure predates the rezoning of the project site and is not consistent with the current PD Zoning nor the surrounding Light Industrial Zoning Districts. As detailed above, the residential structure and shed were converted to storage and office space over time. The City of San José Historic Preservation Officer conducted a site visit to assess the historic merit of the existing residential structure and did not find the structure to have historic merit. The rehabilitation and/or reuse of the existing building would not be feasible given the proposed industrial use and large building footprint and failure to approve the permit would result in the continued existence of a blighted condition, specifically open storage visible from the Will Wool Drive and Quinn Avenue.

7. Planned Development Permit Findings. Section 20.100.940 of the San José Municipal Code establishes the required findings for issuance of a Planned Development Permit.

- a. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan.

Analysis: As noted above, the proposed project site has a Land Use/Transportation Diagram Designation of Light Industrial in the General Plan. There are no applicable specific plans and area development policies for the subject site. The project is consistent with the land use designation and would further the General Plan's goals and policies including:

- i. Land Use Policy LU-6.4: Encourage the development of new industrial areas and the redevelopment of existing older or marginal industrial areas with new industrial uses, particularly in locations which facilitate efficient commute patterns.

The proposed warehouse and office building is an industrial use compatible with surrounding industrial uses. The project site is located at the intersection of two public streets, Quinn Avenue and Will Wool Drive, which would facilitate efficient commute patterns. Regional access to the project site is provided via Senter Road and Tully Road. Vehicular access to the project would be provided via one (1) full-access driveway along Will Wool Drive and one (1) full-access driveway along Quinn Avenue.

- b. The Planned Development Permit, as issued, conforms in all respects to the planned development zoning of the property.

Analysis: As described above, the project is consistent with the height, setbacks, and parking as required by the development standards of the Planned Development Zoning District PDC81-005.

- c. The Planned Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is consistent with the Public Noticing and Public Outreach City goals identified in Council Policy 6-30: Public Outreach Policy. On-site signs describing the proposed project were posted on the project site, visible from Will Wool Drive. The project has been noticed for public hearing to a radius of 500 feet, consistent with the Public Outreach City Council Policy.

- d. The interrelationship between the orientation, location, mass and scale of building volume, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The project proposes to construct a one-story warehouse facility with an attached two-level office space with access from Quinn Avenue and Will Wool Drive. The project has adequate parking and landscaping and the loading areas are appropriately sited and set back from Quinn Avenue. The proposed elevations match the characteristics of the industrial park area surrounding the site. The project building follows the boxy architectural style of nearby buildings of similar size with building elements such as large exterior facades with slight height and color variations; projecting horizontal features such as eaves and canopies highlight main entrances; and buildings are surrounded by surface parking areas and landscaping.

- e. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project would be located within an urbanized area and would not contribute any significant negative effects to the surrounding environment. The project will be required to adhere to standard building and grading permit conditions as well as air and water quality conditions of approval during the construction phase, which will minimize related impacts during this project phase. The project provided a Phase I and Phase II Environmental Site Assessments, a Health Risk Assessment, an Air Quality Assessment, and a Local Transportation Analysis. Through the review and analysis of the named reports, temporary construction of the proposed project will not have an unacceptable negative effect on adjacent property or properties; standard permit conditions and best management practices will be applied and implemented for project construction and operation in accordance with City standards.

- 8. **Tree Removal Findings.** Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Tree Removal Permit, which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.
 - a. That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of Chapter 13.32 of the San José Municipal Code as set forth in Section 13.32.010;
 - b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;
 - c. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

Analysis: The project proposes to remove a total of 27 trees, of which one tree is ordinance size (38 inches in circumference or greater). These trees are located in or too close to the future proposed developments' footprint. The location of the existing trees proposed for removal throughout the site would conflict with the development of the proposed project. The Arborist Report prepared for this project by Richard Smith (Certified Arborist, WE-8475A) and dated March 1, 2019, determined that all the on-site trees, except for trees #747, 748, 749 and 750 are recommended for removal due to poor structure and health. The project would therefore remove the rest of the trees and replace them with 38 trees on-site. All trees are proposed to be planted on-site, however, should trees not be able to be accommodated on-site, the project would be subject to payment of an off-site tree replacement in-lieu fee consistent with the City's tree replacement ratios and as conditioned in the permit.

In accordance with the findings set forth above, a Planned Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Site Development Permit shall be deemed acceptance of all conditions specified in this Permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.

5. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
6. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, “New Construction Offices/Warehouse” dated October 17, 2018 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
7. **Lot Line Adjustment.** Prior to the issuance of a Building Permit the Permittee shall secure approval for a lot merger and provide proof of recordation of a Lot Line Adjustment to consolidate the existing lots.
8. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
9. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass.
10. **Conformance with Previously Approved Zoning.** All conditions of approval and environmental mitigation measures required by the approved Planned Development Zoning applicable at the time of issuance of this Permit, or by the environmental clearance for such zoning, are hereby incorporated by reference into and made a part of this Permit.
11. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
12. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
13. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
14. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly-used areas free of litter, trash, cigarette butts, and garbage.
16. **Affordable Housing Financing Plans.** The San José City Council (“City”) approved the Envision San Jose General Plan 2040 (“General Plan”) in 2011. The General Plan provides the framework for development located in San Jose. The City is in the process of

developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above.

17. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.
- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Transportation:** A Local Transportation Analysis (LTA) was performed for this project, which identified and analyzed the impacts on transportation, access, and related safety elements in the proximate area of the project based on 18 a.m. and 19 p.m. net peak hour trips. See separate LTA Memo dated 6/30/20 for additional information. The following conditions shall be implemented:
 - i. Provide a 32-foot driveway along Quinn Avenue and a 32-foot driveway along Will Wool Drive.
 - ii. Provide an in-lieu contribution to the replacement of the signal pole at the Senter Road/Tully Road intersection.
 - c. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design

- alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - e. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area and will create and/or replace one acre or more of impervious surface. The project must comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) which requires demonstrating that post-project runoff is less than or equal to the estimated pre-project rates and durations.
 - f. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
 - g. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
 - h. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - i. **Street Improvements:**
 - i. Construct 10' wide attached City Standard sidewalk with 4' x 5' tree wells behind back of curb along Quinn Avenue and Will Wool Drive project frontages.

- ii. Construct 32' wide City Standard driveway(s) along Quinn Avenue and Will Wool Drive project frontages.
 - iii. Close unused driveway cut(s).
 - iv. Provide in-lieu contribution for upcoming signal pole replacement at southeast corner of Senter Road/Quinn Avenue.
 - v. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - j. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - k. **Street Trees:**
 - i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only. The recommended street trees are *Nyssa sylvatica* along Quinn Avenue, and *Betula nigra* 'BNMTF' (Dura-Heat) along Will Wool Drive planted 30' on center.
 - 1) Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.
18. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
19. **Building and Property Maintenance.** The property management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
20. **Hours.** This warehouse facility shall be limited to operation between the hours of 6:00 a.m. to 12:00 midnight, unless a Conditional Use Permit, is approved by the City for other hours of operation.
21. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance/approved Planned Development Zoning, as amended. Any changes to the required vehicular,

motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.

22. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
23. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
24. **No Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
25. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
26. **Mechanical Equipment.** No roof-mounted equipment is approved with this permit. All new roof mounted mechanical equipment shall be screened from view and will require a permit adjustment.
27. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
28. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
29. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
30. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
31. **Street Trees.** Street trees, as shown on Approved Plans, shall be planted on the street frontage. A permit for planting street trees shall be obtained from the City Department of Transportation, Trees and Landscaping Section, (408) 794-1900.
32. **Fence Standards.** Fences shall be erected in accordance with the standards established on the Approved Plans. Changes to the approved fencing shall comply with Section 17.24 of the City of San José Municipal Code.
33. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
34. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.

35. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.
36. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
37. **Additional Subsurface Investigation.** Prior to the issuance of grading permits, the applicant shall conduct focused soil sampling including: five (5) additional soil borings, one (1) soil boring at the location of SB-2B to collect deeper samples and four (4) borings in the vicinity and tested to characterize the lateral extent of lead in soil. The results of the soil sampling and testing shall be submitted to the City's Supervising Environmental Planner and Municipal Environmental Compliance Officer for review. A report with continued findings of arsenic and lead above the environmental screening levels of the San Francisco Bay Regional Water Quality Control Board, shall be referred to the Regional Water Quality Control Board or the Santa Clara County Department of Environmental Health (SCCDEH) for further regulatory oversight. Any further investigation and remedial actions (such as a Site Management Plan, Removal Action Plan, or equivalent document) as directed by the regulatory agency (Regional Water Quality Control Board or SCCDEH) must be prepared by a qualified hazardous materials consultant.
38. **Standard Permit Conditions: Air Quality**
- i. During any construction-period ground disturbance, the applicant shall ensure that the project contractor implements measures to control dust and exhaust. The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - 1) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - 2) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - 3) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - 4) Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - 5) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - 6) Replant vegetation in disturbed areas as quickly as possible.
 - 7) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - 8) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of

Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- 9) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- 10) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints.

b. Standard Permit Conditions: Biological Resources

- 1) Any tree to be removed will be replaced with new trees in accordance with the City's Tree Replacement Ratios, as set forth below.

Table 4.4-2: Tree Replacement Ratios				
Circumference of Tree to be Removed¹	Type of Tree to be Removed²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12 inches or more ³	5:1	4:1	3:1	15-gallon
6.0 to 12 inches	3:1	2:1	None	15-gallon
Less than 6.0 inches	1:1	1:1	None	15-gallon
¹ As measured 4.5 feet above ground level ² X:X = tree replacement to tree loss ratio ³ Ordinance-sized tree Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 19-inch tree equals 6.1 inches in diameter. One 24-inch box tree= two 15-gallon trees				

- 2) In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement.
- 3) The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage. Replacement tree plantings may be accommodated at an alternative site(s).

Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

- 4) The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the SCVHP Coverage Screening Form to the Director of Planning, Building, and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

c. Standard Permit Conditions: Cultural Resources

- i. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of PBCE or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- ii. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill (AB) 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - 1) The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - 2) The MLD identified fails to make a recommendation; or
 - 3) The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

d. Standard Permit Conditions: Geology and Soils

- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the

- City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
 - iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
 - iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
 - v. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
 - vi. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of PBCE shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.
- e. Standard Permit Conditions: Hazards and Hazardous Materials
- i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
 - ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
 - iii. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
 - iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- v. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- vi. Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
 - 1) Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
 - 2) During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
 - 3) Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.
- f. Standard Permit Conditions: Hydrology and Water Quality
 - i. The following project-specific measures, based on RWQCB BMPs, have been included in the project to reduce construction and development-related water quality impacts. BMPs would be implemented prior to and during earthmoving activities on site and would continue until the construction is complete and during the post-construction period as appropriate.
 - 1) Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
 - 2) Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
 - 3) All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
 - 4) Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
 - 5) All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
 - 6) All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
 - 7) Vegetation in disturbed areas shall be replanted as quickly as possible.
 - 8) All unpaved entrances to the site shall be filled with rock to remove mud from truck tires prior to entering City streets. A tire wash system shall be employed if requested by the City.
 - 9) The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

g. **Standard Permit Conditions: Noise**

- i. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- iv. Prohibit unnecessary idling of internal combustion engines.
- v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- vi. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- vii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- viii. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- x. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- xi. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses

39. Building Division Clearance for Issuing Permits. Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, PD19-021 shall be printed on all construction plans submitted to the Building Division.

- b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Common Interest Development.* Prior to issuance of any certificate of occupancy, or release for occupancy, the Permittee shall provide a self-certified statement to the satisfaction of the City's Chief Building Official that the project, as constructed, meets the City of San José Common Interest Development standards.
 - f. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
 - g. *Other.* Such other requirements as may be specified by the Chief Building Official.
40. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2016 California Fire Code.
41. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **5th of August, 2020.**

Rosalynn Hughey, Director
Planning, Building, and Code Enforcement

Deputy